

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
BRYSON CITY DIVISION  
Case Number: 2:12-cv-37-MR

FILED  
ASHEVILLE, N.C.  
AUG 31 2015  
U.S. DISTRICT COURT  
W. DIST. OF N.C.

DIANE CARROLL,

Plaintiff,

v.

WELLS FARGO BANK, N.A.,

Defendant.

CONSENT ORDER  
AND JUDGMENT

Pursuant to Rules 54 and 58 of the Federal Rules of Civil Procedure, the Plaintiff Diane Carroll and the Defendant Wells Fargo Bank, N.A. ("Wells Fargo") have agreed to enter into this Consent Order and Judgment to resolve all matters in dispute between them in this lawsuit. Based on the consent of Ms. Carroll and Wells Fargo (as evidenced by the signatures below), the case file, and for good and sufficient cause shown, the Court finds as follows:

1. Ms. Carroll was a named plaintiff in a mass action captioned *Beritelli, et al. v. Wells Fargo Bank, N.A., et al.*, No. 1:11-CV-000179-MR (filed July 19, 2011) (the "*Beritelli* Mass Action"), which asserted claims against Wells Fargo and a number of individual Defendants.

2. By Order dated June 22, 2012, the Court severed all claims in the *Beritelli* Mass Action—with the exception of the claims asserted by Thomas and Sharon Beritelli, the first-named Plaintiffs in that mass action—and permitted the severed Plaintiffs to refile their claims as separate lawsuits.

3. On August 21, 2012, Ms. Carroll filed the present lawsuit, which asserts claims against Wells Fargo arising out of her purchase of a lot in a development known as River Rock

and her financing of that purchase with a Wells Fargo loan. (Doc. 1) Specifically, Ms. Carroll's Complaint included causes of action for fraud; negligent misrepresentation; violation of the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1, *et seq.* (the "UDTPA"); and violation of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. § 1703(a)(2) (the "ILSA"). (Doc. 1)

4. On August 24, 2015 and with the consent of Plaintiff, through her counsel, Wells Fargo filed an Amended Counterclaim against Ms. Carroll (*see* Doc. 39) asserting counterclaims for tortious interference with contract and civil obstruction of justice based on alleged actions by Ms. Carroll relating to the circumstances giving rise to and surrounding the *Beritelli* Mass Action and the above-captioned action.


5. Plaintiff no longer desires to prosecute her claims against Wells Fargo. To this end, she consents to the dismissal with prejudice of all claims asserted Wells Fargo in her Complaint.

6. Plaintiff and Defendant Wells Fargo mutually consent to, and hereby authorize entry of, a final judgment against Plaintiff in the cumulative amount of \$50,000.00 as to all claims asserted against Plaintiff by Wells Fargo in the Amended Counterclaim.

Therefore, with the consent of Ms. Carroll and Wells Fargo, it is hereby ORDERED, ADJUDGED and DECREED that:

- (1) Wells Fargo shall have and recover from Ms. Carroll the sum of \$50,000.00;
- (2) Ms. Carroll shall have and recover nothing from Wells Fargo, and her claims against Wells Fargo, as set forth in the Complaint, are hereby dismissed with prejudice; and
- (3) Each party shall be responsible for its own attorneys' fees and costs.

Signed this the 29 day of August, 2015

  
\_\_\_\_\_  
Martin K. Reidinger  
United States District Judge

**CONSENTED TO AND ENTRY REQUESTED BY:**

/s/ Edward L. Bleynat, Jr.

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*Attorneys for Defendant Wells Fargo Bank, N.A.*

**(Plaintiff's Verification and Signature Line on Following Page)**

Diane Carroll, being first duly sworn, deposes and says:

I have reviewed the Consent Order and Judgment, and its contents are true and correct based on my personal knowledge as to all relevant matters. I voluntarily executed the foregoing Consent Order and Judgment and agreed to the terms contained therein.

This the 24th day of August, 2015.

By:

Diane Carroll

Diane Carroll

STATE OF

New Jersey

COUNTY OF

Bergen

Sworn to and subscribed before me this 24th day of August, 2015.

Matthew Goldberg  
(Signature)

MATTHEW Goldberg  
(Print Name)

NOTARY PUBLIC

My Commission expires: 4/16/18

